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| APPLICATION NO.                                       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/786,317  | 02/25/2004  | Henry J. McVicker    | 5137.79600008             | 2637                   |
| 28104   | 7590        | 08/24/2007           |                           |                        |
| JONES DAY<br>77 WEST WACKER<br>CHICAGO, IL 60601-1692 |             |                      | EXAMINER<br>LEE, EDMUND H |                        |
|   |             |                      | ART UNIT<br>1732          | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>08/24/2007   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/786,317

Applicant(s)

MCVICKER, HENRY J.

Examiner

EDMUND H. LEE

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3,5-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) 3,5-7 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Applicant's election with traverse of claims 8,10, and 12-17 in the reply filed on 5/29/07 is acknowledged. The traversal is on the ground(s) that the amendment warrants withdrawal of the restriction because the process requires the insert, the product requires a step of retracting the insert, and there is no serious burden. This is not found persuasive because 1) the process as now claimed can be practiced by another and material different apparatus such as a compression molding apparatus instead of an injection molding apparatus; 2) the product can be made by a different process such as destructing (melting or chemical) an insert instead of retracting the insert to free the hooks; and 3) each invention requires a search in different classes and subclasses wherein some of the searches are not overlapping, thus creating a burden.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8,10, 12-14 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Harvey (USPN 6224364). Harvey teaches the claimed process as evidenced at figs 1-6c.

4. Claims 8,10,12, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Buzzell et al (USPN 6187247). Buzzell et al teaches the claimed process as evidenced at figs 13a-13b.

Art Unit: 1732

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey (USPN 6224364). The above teachings of Harvey are incorporated hereinafter. In regard to forming the hooks on the outer surface of the box, such is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, boxes with hooks on the outer surface are well-known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to position the hooks on the outer surface of the box in order to form a diverse product.

7. Applicant's arguments filed 5/29/07 have been fully considered but they are not persuasive. Applicant argues that neither Harvey nor Buzzell et al teach the claimed draft angle. In regard to Harvey, the instant specification defines "draft" as the angle defined by the surface of the mold and the theoretical plane along which the molded surface moves as it is withdrawn from the mold. Since the instant specification does not further define which mold surface is the point of reference (for example, the surface adjacent the insert), the mold surface of Harvey that is parallel with the insert constitutes the claimed draft angle. In regard to Buzzell et al, figs 13a-13c of Buzzell et al clearly

Art Unit: 1732

teach that the molded article is removed from the mold in a downward direction, which would constitute the claimed draft angle.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on **MONDAY-THURSDAY FROM 9AM-4PM**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone


Art Unit: 1732

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EHL

EDMUND H. LEE  
Primary Examiner  
Art Unit 1732

  
8/10/07